

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

YSAURA MEZON, individually and as parent :
of O.M.; LUCIA MEJIA, individually and as :
parent of E.V.; MARIA PIRIR, individually and as :
parent of M.P.; JUAN CRUZ ESTEVEZ, :
individually and as parent of Y.T.; on behalf of :
themselves and all others similarly situated, :
Plaintiffs, :

v. :

1:24-cv-00161-JJM-LDA

PROVIDENCE PUBLIC SCHOOL :
DEPARTMENT; PROVIDENCE PUBLIC :
SCHOOL BOARD; RHODE ISLAND :
DEPARTMENT OF EDUCATION; and :
ANGÉLICA INFANTE-GREEN, :
Commissioner of Education, :
Defendants :

**THE LOCAL RULE 56(a) STATEMENT OF UNDISPUTED FACTS IN SUPPORT
OF THE MOTION FOR SUMMARY JUDGMENT OF DEFENDANTS RHODE
ISLAND DEPARTMENT OF EDUCATION, ITS COMMISSIONER, AND
THE PROVIDENCE PUBLIC SCHOOL DEPARTMENT**

Defendants, RHODE ISLAND DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION (“RIDE”), ANGÉLICA INFANTE-GREEN, in her official
capacity as Commissioner of Education (the “Commissioner”), and the PROVIDENCE PUBLIC
SCHOOL DEPARTMENT (“PPSD” or the “District” and collectively, the “Defendants”), jointly
submit the following Statement of Undisputed Facts pursuant to Local Rule 56(a) in support of
their motion for summary judgment pursuant to Fed.R.Civ.P. 56(c).

I. INTRODUCTION

Plaintiffs are correct when they claim in their *Memorandum in Opposition to Defendants’
Motion for Summary Judgment* (“Pltfs.’ Mem.”) (ECF 14-1) that pursuant to Local Rule 56(a),

the undisputed facts supporting Defendants' Motion for Summary Judgment (ECF 5) in the following *Statement of Undisputed Facts* should have accompanied Defendants' Motion.

However, the fact that the Defendants originally submitted the relevant undisputed facts with their motion in the form of affidavits, i.e., of RIDE Deputy Commissioner Dr. Kelvin Roldán Aff. (the "Roldán Aff.") (ECF 8-1) and PPSD Deputy Superintendent of Operations Zachary Scott (the "Scott Aff.") (ECF 8-15), does not mean that Defendants' Motion for Summary Judgment should be denied, or support Plaintiffs' hyperbolic claim that they were "left in the untenable position of disputing all facts asserted by the Defendants, whether peripheral, rhetorical, or material." *See* Pltfs' Mem. at 6.

The following facts are supported either by a citation to: (a) a public document or publicly-available data source; or (b) if supported by personal knowledge, to the relevant paragraph and page of one of the affidavits submitted in support of Defendants' Motion for Summary Judgment.

II. STATEMENT OF UNDISPUTED FACTS

A. The State Intervention under the Crowley Act

1. In June of 2019 the Johns Hopkins School of Education's Institute for Education Policy released a report on the state of the public schools in Providence and concluded that:

- a. PPSD had an exceptionally low level of academic instruction, including a lack of quality curriculum and alignment both within schools and across the district.
- b. School culture was broken, and safety was a daily concern for students and teachers.
- c. Beyond these safety concerns, teachers do not feel supported.
- d. School leaders are not set up for success.
- e. Parents are marginalized and demoralized.

Id. at 2-3. A copy of the Report is attached to the Roldán Aff. as Exhibit B.

2. In the wake of the Hopkins Report, and after years of unsuccessful intervention by RIDE, the State intervened under the *Paul W Crowley Rhode Island Student Investment Initiative* (the "Crowley Act"), R.I. Gen. Laws § 16-7.1- 5, which provides, in pertinent part, that "[i]f after a three (3) year period of support:"

... there has not been improvement in the education of students as determined by objective criteria to be developed by the [Council], then there shall be progressive levels of control by the department of elementary and secondary education over the school and/or district budget, program, and/or personnel. This control by the department of elementary and secondary education may be exercised in collaboration with the school district and the municipality. If further needed, the school shall be reconstituted. Reconstitution responsibility is delegated to the [Council] and may range from restructuring the school's governance, budget, program, personnel, and/or may include decisions regarding the continued operation of the school. The [Council] shall assess the districts capacity and may recommend the provision of additional district, municipal and/or state resources. If a school or school district is under the [Council's] control as a result of actions taken by the [Council] pursuant to this section, the local school committee shall be responsible for funding that school or school district at the same level as in the prior academic year increased by the same percentage as the state total of school aid is increased.

R.I. Gen. Laws § 16-7.1-5.

3. On July 23, 2019, the Council on Elementary and Secondary Education (the "Ed. Council"), delegated to the Commissioner:

... the Council's power and authority to take actions consistent with, and in furtherance of, RIDE's intervention in and support of the Providence Public School District, which would include, but not be limited to, assuming control of the District, the reconstitution of the Providence Public Schools and any other power (at law and in equity) available to the Council as may be authorized by law and as may be determined to be necessary and appropriate by the Commissioner.

See Minutes of the Ed. Council's July 23, 2019 meeting attached to the Roldán Aff. as Exhibit C.

4. Following a show cause hearing, the Commissioner found on October 15, 2019 that "there had not been improvement in the education of students in the PPSD as determined by

objective criteria" after the three (3) year period specified in the Crowley Act, and thus entered an Order of Control and Reconstitution, which provided, in pertinent part, as follows:

The Commissioner shall control the budget, program, and personnel of PPSD and its schools and, if further needed, the Commissioner shall reconstitute PPSD schools, which may include restructuring the individual school's governance, budget, program, personnel and/or decisions related to the continued operation of the school. The Commissioner shall exercise all the powers and authorities delegated by the Council to the Commissioner and all powers of RIDE over the budget, program and personnel of PPSD and over the individual school's governance. The Commissioner shall also have all powers and authorities currently exercised by the Providence School Board and Superintendent (Acting, Interim or Permanent), as well as all powers and authorities of the Mayor of Providence, and the Providence City Council as it pertains to PPSD and its schools.

See October 15, 2019 Order of Control and Reconstitution, a copy of which is attached to the Roldán Aff. as Exhibit D.

5. On November 1, 2019, the Commissioner then entered into a Collaboration Agreement with the Mayor of Providence, Jorge O. Elorza, which provided, in pertinent part, that:

As set forth in the October 15, 2019 Order and consistent with the Crowley Act, RIDE has assumed full managerial and operational control and responsibility over PPSD's budget, program and personnel. RIDE, through the Commissioner and the City, through its Mayor hereby agree to collaborate in RIDE's exercise of control over PPSD's budget, program and personnel, and its schools.

See the Collaboration Agreement, a copy of which is attached to the Roldán Aff. as Exhibit E, § 1(A) at p. 3.

6. On April 29, 2020, the Commissioner entered an order with respect to the authority of the Providence School Board (the "PSB"), which provided, in pertinent part, as follows:

The PSB shall continue to serve in an advisory role on matters related to PPSD's budget, program, and personnel decisions; [and]

The PSB will continue to issue any statements of cause and/or conduct hearings required under the Teachers' Tenure and School Administrators' Rights Acts, and take necessary action incident thereto, provided, however, that such action shall not be legally effective unless and until adopted by the Commissioner, in writing . . .

See the Commissioner's Order 20-002 re the Providence School Board, a copy of which is attached to the Roldán Aff. as Exhibit F, §§ 2-3 at p. 2.

B. The Decision to Merge 360 and JSEC and Create the JSLSI

7. The decision by the PPSD Superintendent, Dr. Javier Montañez to merge 360 High School ("360") with the Juanita Sanchez Educational Complex ("JSEC") to create a redesigned Juanita Sanchez Life Sciences Institute ("JSLSI"), was made by PPSD after a careful examination of 360's current and historical assessment data, the needs of 360's students, coupled with available economic resources and compatibility with existing redesign plans for the District's high schools. The decision was then reviewed by the Commissioner and her team at RIDE and approved. *See* the Roldán Aff., ¶ 10 at pp. 4-5.

8. As of October 1, 2022, there were 335 students enrolled in 360 in grades 9 through 12 with the following percentages of economically disadvantaged, MLL and differently abled students:

Economically Disadvantaged Students		Multilingual Learners		Differently Abled Students	
School	State	School	State	School	State
81.8%	46.1%	48.1%	12.5%	13.4%	16.7%

See the Roldán Aff., ¶ 11 at p. 5; *see also* RIDE Data Center Enrollment dashboard.¹

¹ Available at <https://datacenter.ride.ri.gov/Home/FileDetail?fileid=994>. This data is filtered by school year and school. Since the submission of Dr. Roldan's affidavit dated April 26, 2024, enrollment data from October 1, 2023 was made publicly available.

9. Although there were 161 MLLs enrolled at 360 across all grade levels as of October 1, 2022, 360 does not have the highest MLL concentration in the district. Three other schools, all undergoing redesign, have similar concentrations.² *See id.* However, in 2022-2023 just 6% of 360's MLL students met their annual growth targets on the ACCESS assessment.³

10. Of the 36 individuals working at 360 in 2022-2023, 28 are teachers, 6 are support professionals, and 2 are administrators. *See* the "Educator Data" tab in the 2022-23 Report Card for 360 High School.⁴ 14% of the teachers are inexperienced, 7% are working out of their primary field and 7% are using an emergency certification. *See id.*

11. In accordance with Rhode Island's Every Student Succeeds Act ("ESSA") State Plan, schools that have been identified for Comprehensive Support and Improvement ("CSI")⁵ and have failed to meet exit criteria within four years of identification must undergo a school redesign process. *See* ESSA State Plan (A copy of the Plan is attached as Exhibit M to the Rodán Aff.); *see also* the "Accountability" tab in the 2019-20 Report Card for 360 High School.⁶ 360 was identified for CSI in the 2019-2020 school year and all the relevant data suggests that it will be unlikely to be able to exit CSI status when they are eligible to do so in 2024-2025. *See* Roldán Aff., ¶ 14 at p. 5.⁷

12. PPSPD's decision to recommend the restructuring of 360 to create the JSLSI prioritized expanding access to innovative and engaging programming for in-demand, high-paying

² 360 was tied with four other PPSPD high schools (Central High School, Jorge Alvarez High School and JSEC, as well as with Spaziano Elementary School). Four elementary schools had still higher concentrations of MLLs.

³ Calculated using protected student data from the Student Data Portal.

⁴ Available at <https://reportcard.ride.ri.gov/202223/SchoolEducators?SchCode=28195&DistCode=28>.

⁵ CSI schools are those in the lowest 5% in student performance in the State.

⁶ Available at <https://reportcard.ride.ri.gov/201920/SchoolAccountability?SchCode=28195&DistCode=28>.

⁷ Achievement measures for math and ELA in school accountability are calculated using two years of data. Thus, accountability results in the 2023-24 Report Card would measure performance on state SAT and DLM assessments in 2022-23 and 2023-24 combined. For additional information, *see* RIDE's School Accountability Technical Manual at <https://reportcard.ride.ri.gov/2019AccountabilityTechnicalManual.pdf>.

fields. JSEC is undergoing redesign along with Hope, Jorge Alvarez, and Mount Pleasant High Schools, as well as the DelSesto Middle School, and with these redesign plans, all PPSD high schools have strategies for long-term success in place. *See id.*, ¶ 15 at p. 6; *see also* Enclosure 5a in the minutes of the July 18, 2023 meeting of the Ed. Council.⁸

13. The re-designed JSEC, which will next year be known as the Juanita Sanchez Life Sciences Institute ("JSLSI"), will allow the school community to leverage the state's focus and investments in growing the life sciences to create a hub that will place PPSD at the forefront of education innovation in the state while promoting academic excellence. *See id.*, ¶ 16 at p. 6; *see also* the Educator Data in the 2022-2023 Report Card for 360.⁹

14. The merger will not entail the closure of any school building. Both 360 and JSEC are currently co-located within a single building and will remain in the same building after they merge into the JSLSI. *See id.*, ¶ 17 at p. 6.

15. Contrary to Plaintiff's inference, *see* Complaint, ¶ 68 at p. 28, 360 students will be treated as any other PPSD high school with respect to their choice of what high school they want to attend. *See id.*, ¶ 18 at p. 6.

i. 360's Chronic Underperformance

16. PPSD closely reviewed 360's performance data to make the recommendation for restructuring. 360's concerning measures on the SAT included:

- 0% math proficiency and 6.7% English language arts ("ELA") proficiency in SY 2022-2023 (all high schools with lower or similar rates are undergoing redesign);
- 1.4% math proficiency and 21.1% ELA proficiency in SY 2021-2022 and 0% math proficiency 14.3% ELA proficiency in SY 2020-2021.

⁸ Available at https://ride.ri.gov/sites/g/files/xkgbur806/files/2023-07/Council_Meeting_July_FinalAgenda.pdf.

⁹ Available at <https://reportcard.ride.ri.gov/202223/SchoolEducators?SchCode=28195&DistCode=28>.

See 360's math and ELA performance data, respectively attached as Exhibits G and H to the Roldán Aff.

17. The above figures reflect a significant (12.9%) decrease in ELA proficiency from 2021-22 to 2022-23. In addition, 360's math proficiency has stagnated across the three school years. *See id.*

18. 360 had a 75% four-year graduation rate for SY 2021-2022, and a 74.4% four-year graduation rate for MLLs (again, all high schools with lower or similar rates are undergoing redesign). *See* High School Graduation Rates, attached to Defendants' Memorandum as Exhibit I.¹⁰ By contrast, JSEC's four-year graduation rate in 2021-2022 was 82.7% and 83.3% for MLLs. In addition, 360 had a 16.2% drop-out rate and 17.9% drop-out rate for MLLs in SY 2021-2022. *See id.*

19. Additionally, 360:

- has no accreditation from the New England Association of Schools and Colleges;
- offers no Advanced Placement ("AP") classes;¹¹
- has no approved Career & Technical Education (CTE) offerings;¹²
- had only 4.4% of students earning dual or concurrent enrollment college credits in SY 2022-2023;
- had a postsecondary enrollment rate of 37.9% for 2021-2022 graduates, which is below the Districtwide average, and had the lowest postsecondary success index ranking of any high school in the entire state;¹³ and

¹⁰ *See also* the Graduation dashboard in the RIDE Data Center, available at <https://datacenter.ride.ri.gov/Home/FileDetail?fileid=986>. This data is filtered by school year and school. Since the submission of Dr. Roldán's affidavit dated April 26, 2024, enrollment data for the 2022-2023 school year was made publicly available.

¹¹ *See* the PrepRI dashboard in the RIDE Data Center, available at <https://datacenter.ride.ri.gov/Home/FileDetail?fileid=997>. Select the tabs with AP Tests, Dual/Concurrent Enrollment, and CTE Programs and filter by school year and school.

¹² *See* RIDE's list of approved CTE programs for school year 2023-24, which is publicly available on the RIDE CTE website: https://ride.ri.gov/sites/g/files/xkgbur806/files/2023-10/SY23-24_CTEApprovedPrograms_Website%20Version.pdf; <https://ride.ri.gov/students-families/education-programs/career-technical-education>.

¹³ *See* the "Postsecondary" tab in the 2022-23 Report Card for 360 High School, available at <https://reportcard.ride.ri.gov/202223/SchoolPostsecondary?SchCode=28195&DistCode=28>.

- had a 49.4% chronic absenteeism rate in SY 2022-2023 in a comparatively small school environment.¹⁴

20. Moreover, U.S. News & World Report has ranked JSEC higher (39) than 360 (which is then 44-58 dead last grouping).¹⁵

ii. Current Placement of MLL Students and Teachers

21. Teacher and student placement for SY 24-25 is underway and presently, JSLSI has made offers of continued employment to 19 teachers at 360. To date, 17 students out of 286 have asked to be assigned to another school. *See* Roldán Aff., ¶ 24 at p. 7.

C. The DOJ Settlement Agreement and Oversight

22. On November 21, 2016 — three years prior to the State intervention under the Crowley Act — the United States Department of Justice ("DOJ") notified PPSD that it was opening an investigation in response to complaints that the District was not meeting its obligations to provide language acquisition services to its MLL students or meaningful communications to Limited English Proficiency ("LEP") parents. The DOJ requested, and the District produced, thousands of documents and requests for data. In addition, the DOJ did a number of site visits to schools, the administration building, and the District Registration Center on April 24-28 and May 9-10, 2017. *See id.*, ¶ 25 at p. 7.

23. On March 8, 2018, the DOJ notified the District's attorneys of conditions which, in its judgment, constituted violations of the EEOA, and the District and the DOJ entered into the Settlement Agreement on August 9, 2018. A copy is attached to the Roldán Aff. as Exhibit J.

24. Legal counsel for the District, in conjunction with various District personnel, including the Director of MLLs (and eventually representatives of RIDE), participated in calls and

¹⁴ *See* the "Historical Absences" dashboard in the RIDE Data Center, available at <https://datacenter.ride.ri.gov/Home/FileDetail?fileid=990>. Select the tab titled "Chronic Absenteeism in Rhode Island (% of students)" and filter by school.

¹⁵ *See* <https://www.usnews.com/education/best-high-schools/rhode-island/rankings>.

virtual meetings with three to four DOJ attorneys and an educational consultant on an almost daily basis from the inception of the Settlement Agreement in August of 2018 through February of 2023. In addition, the DOJ made site visits to nearly all Providence schools, visiting semiannually, including a "virtual visit" during the 2020-2021 School Year. In addition, the DOJ issued regular monitoring letters during this time. *See* Roldán Aff., ¶ 28 at p. 9.

25. On September 29, 2021, the District entered into an Extension of the Settlement Agreement in which the DOJ recognized that:

the District has made some significant progress in meeting its obligations under the Agreement. Specifically, the District has devoted resources toward the identification of ELs, oral and written communications with parents, professional development for teachers and staff, curriculum for English Language Development classes, and English as a Second Language ("ESL") certification for its teachers.

See Exhibit K to the Roldán Aff. The Extension Agreement was set to expire on May 15, 2024.

26. The progress with respect to its compliance with the Settlement Agreement and its services to MLLs and their families, which includes the following:

- (a) The District changed its enrollment procedures immediately after the execution of the 2018 Settlement Agreement to include giving a home language survey to all enrolling students and screening all students whose families indicated a language other than English on the home language survey and for the past two years, the District has run a monthly report of all registered students to ensure that all have completed a home language survey and have been screened if necessary. As noted in DOJ's February 8, 2023 monitoring letter to the District, "the District's data reports reflect improvements in identifying and assessing EL students. According to the October 2022 report, the District administered English Language Proficiency assessments to all but 15 of the 13,000 students identified as having a home language other than English on the home language survey";
- (b) Beginning in the 2018-19 School Year, the District eliminated the consultation model and revamped the collaboration model. Prior to the Settlement Agreement, no students in the District were receiving an explicit period of ESL English Language Development. In its first year of the Settlement Agreement, the District scheduled less than 50% of students for an ESL English Language Development period. In the past three years, the District has consistently scheduled 98% of its MLL population for the appropriate amount of ESL, both English Language Development and embedded ESL. The DOJ noted in its February 8, 2023

monitoring letter that "the District has made noteworthy strides in its scheduling and delivery of ESL";

- (c) The District drastically revised its protocols regarding families who opt students out of MLL services in 2020. Before that change, families could opt their child out of services permanently with a one-time signature. Beginning in 2020, only a parent/guardian or eligible student was permitted to opt a student out of services. According to current protocol, students can only be opted out of services after a parent/guardian meets with a fully ESL or Bilingual/Dual Language certified and trained staff to discuss the waiver decision. The meeting is conducted in the parent/guardian's preferred language with applicable interpretation and translation services. Since the inception of the new MLL waiver protocol in 2020, the District has historically low levels of students opting out of MLL services, with an overall opt out rate of 2.3% in its last reporting to DOJ. Further, no school has an opt out rate of higher than 10%;
- (d) The District undertook great efforts to provide sheltered content instruction training and coaching to all core content teachers of MLLs. According to July 2023 reporting data, 93.8% of MLLs received at least one period of SCI content instruction from a qualified teacher according to the Settlement Agreement and 84% of MLLs received at least two periods of SCI content instruction as required by the Settlement Agreement;
- (e) The District discontinued its Sheltered ESL program in the 2022-2023 School Year and no longer segregates any MLL students outside of those in a newcomer program, which they do not stay in beyond two years;
- (f) The District changed all teacher job postings to indicate that ESL certification was preferred for all certified teaching jobs. In addition, the District began an aggressive and years long initiative to convert teaching positions in the District to require an ESL certification. The District paired this initiative with an incentive plan that allowed all core content teachers of MLLs to receive reimbursement for up to eight thousand (\$8,000) dollars to receive their ESL certification. Beginning in 2023, the District also offered teachers the option to have tuition paid directly to certification granting schools so that teachers would not have to come out of pocket for tuition monies associated with receiving ESL certification. As of the 2023-2024 School Year, the District employs five hundred eighty-seven (587) teachers who are fully ESL, Bilingual or Dual Language certified. It employs another one hundred fifty-five (155) teachers who have expert residency in ESL (have completed some courses toward certification). The number of teachers has steadily increased, with two hundred thirty-eight (238) teachers who were utilizing or had used the District's incentive program to obtain ESL certification in July 2022 data reporting to DOJ and 432 teachers who were

utilizing or had used the District's incentive program to obtain ESL certification in July 2023 data to DOJ;

- (g) Jennifer Efflandt was appointed as the Director of MLLs in 2018. She is an experienced administrator who had previously worked as an MLL coach, coordinator, and consultant, as well as an Early Childhood, Dual Language, and ESL teacher. In addition, the Office of Multilingual Learners has been vastly expanded and now consists of a full time Director of Multilingual Learner Instruction & Services, Supervisor of Dual Language Programs & Services, Coordinator of Multilingual Learners, Elementary Manager of Multilingual Learner Instruction, two Multilingual Learner Manager and Manager of Multilingual Learner Instruction & Services for Middle School and Times 2. All these positions are filled with experienced administrators and former MLL or Bilingual teachers;
- (h) The District entered into a contract with WestEd, who helped it develop thirty (30) hours of DOJ approved training modules on sheltered content instruction (hereinafter "SCI") for all teachers. According to the District's July 2023 data submission, three hundred sixty-four (364) core content teachers of MLLs completed all thirty (30) hours of SCI professional development and another one hundred and five (105) were on track to complete SCI sessions. Another one hundred twenty-eight (128) were new teachers who had started the professional development sessions. This is a total of five hundred and ninety-seven (597) non-ESL certified teachers who met the DOJ's professional development requirements to teach core content SCI classes out of a possible six hundred fifty-four teachers. The District also implemented an SCI coaching program to assist in completing its in classroom support requirement under the Settlement Agreement. Four hundred ninety-six (496) core content teachers of MLLs completed all fifteen hours of SCI coaching and another ninety-one (91) were on track to complete the coaching sessions. Another thirty-one (31) were new teachers who started the coaching sessions. This is a total of six hundred eighteen (618) non-ESL certified teachers who met the DOJ's coaching requirements to teach core content classes out of a possible six hundred fifty-four teachers;
- (i) The District has invested in high quality English Language Development curriculum, including Vista Higher Learning- Connect for ELD at the Elementary level, Vista Higher Learning- Get Ready for Elementary level Newcomers, Cengage- INSIDE Levels A, B and C for Middle School Level, Vista Get Ready and Imagine Learning for Middle School level Newcomers, Edge Reading, Writing & Language Fundamentals A, B & C (both digital and hard copy) for High School level, and Vista Higher Learning- Get Ready for High School level Newcomers. In addition, the District purchased Rosetta Stone as a supplemental material for all High School levels MLLs. The District also invested in a new English Language Arts and Social Studies curriculum at the

Elementary and Middle School levels, American Reading Company, that aligns with its English Language Development curriculum and is more accessible to MLLs. District teachers and staff also received extensive professional development and coaching from Vista and American Reading Company concerning curriculum implementation;

- (j) After the execution of the Settlement Agreement, the District began asking parents/guardians for their preferred language on each home language survey. This information is captured in the District's information system for MLLs, "Ellevations" and in its student information system, "Skyward." It is accessible to all teachers and administrators. Further, the District implemented the usage of "Kinvoled," a messaging app which translates all District messages into a parent/guardian's preferred language and allows for two-way messaging while translating messages between the parent/guardian and the school. In 2020, the District entered into a contract with Lionbridge for all interpretation services and "Effectiff" for translation services. Lionbridge offers interpretation by phone in over three hundred and fifty (350) languages and is immediately available in all Major Languages. Lionbridge usage is monitored on a monthly basis by school and during the 2022-23 school year, it was used for 114,955 minutes of interpretation calls in forty-four languages. "Effectiff" was used beginning in 2020 to translate all IEPs, 504s and associated documents, as well as all disciplinary documents into every parent/guardian's preferred language. The District also uses "Effectiff" to translate all District and school based documents to parents/guardians into preferred languages. During the 2022-23 school year, 4,357 documents were translated into over thirty-five languages.
- (k) The District took several steps to increase the MLL population in each of the cited programs.
 - i. **Middle School Advanced Academics:** The District expanded the Middle School Advanced Academics program to include Advanced Academics at additional District middle schools, giving MLLs a greater opportunity to participate. In addition, students were offered the opportunity to participate in particular classes within Advanced Academics, as opposed to a prior policy which required that students take all core content classes in Advanced Academics, which disproportionately impacted MLLs who may not have been ready to take ELA Advanced Academics due to language acquisition issues. Further, the District took great strides to adequately train administrators to identify MLLs who they felt would be successful in Advanced Academics. The MLL Office then personally contacted each family. In contrast to the 2016-2017 School Year in which zero (0) active MLLs were participating in middle school Advanced Academics, in the 2022-2023 School Year, 31 active MLLs participated in Advanced Academics at the middle school level, representing approximately 17%

of the total population of students in middle school Advanced Academics;

- ii. **Classical:** The District has undertaken numerous initiatives to increase the number of MLLs enrolled at Classical High School, including offering the admissions test during the school day for all interested District middle school students and bussing all students to the testing site who are interested in taking the admission test. The District has also added a member of the MLL Office to the Classical admissions team and offered information regarding Classical in all Major Languages in the District. The District has also put out an RFP for an admissions exam in multiple languages for the 2024-2025 School Year. Finally, Classical has assembled a working group which has developed a long-term plan to increase its percentage of MLLs. Classical's number of enrolled active MLLs has improved from one (1) during the 2016-2017 School Year to thirty-four (34) in the 20232024 School Year; and
- iii. **CTE:** The District has also undertaken numerous measures to increase the number of MLLs in its CTE programs, including increasing the number of seats available to MLLs in CTE in accordance with the number of MLLs in the District and interest level. In the 2022-2023 School Year, 131 active MLLs were enrolled in CTE throughout the District, representing 31% of the total population of students in CTE in the District, a substantial increase from the 11% enrolled in the 2016-2017 school year;
- (l) Since entering into the Settlement Agreement, the District has retained a consultant, Dr. Ortiz, who is an expert in the evaluation of MLLs with suspected disabilities. Dr. Ortiz has provided numerous professional development workshops for special education teachers and administrators in the district. The District has also used his expertise to help develop a Special Education guidebook that provides a centralized location for policies, forms, checklists, and other documents to assist in the assessment of MLLs who are dually identified or suspected to have a disability. The District has also created a specific administrative position that works as a liaison between the Special Education Office and the MLL Office and who is an expert on dually identified students. The District has also created a uniform system of MTSS across the District, which has greatly benefited MLLs. As noted by the DOJ in its February 8, 2023 monitoring letter, MLLs were identified for special education services at nearly the same rate as non-MLL students across the District and "in contrast to previous years, the identification rate was similar within nearly all of the District's school." The DOJ stated that "this data suggests that the District has made strides towards ensuring that Els are not denied special education services on account of their language needs"; and

- (m) Beginning in October of 2022, the District was able to comply with all data requirements in the Settlement Agreement and file timely annual reports in July of 2022 and 2023, as well as provide the DOJ with frequent supplemental data requests. In addition, the District invested in a data warehouse which allows it to run monthly reports on all DOJ compliance matters regarding the monitoring of MLLs. The District also utilized Brown University Policy Lab to help it submit two longitudinal studies to the DOJ in compliance with its Settlement Agreement. As noted by the DOJ in its February 8, 2023 letter, "After years of pulling data from multiple sources with inconsistent and unreliable results, the District now appears to have a reliable and accessible data warehouse from which EL data can be disaggregated by a number of variables and analyzed. We recognize that this has not been an easy endeavor, and we commend the District staff for their persistence in creating a system that can be used to ensure that EL students are appropriately served."

See Roldán Aff., ¶ 30 at pp. 9-14.

27. Since entering the Settlement Agreement with the DOJ, the District has worked diligently to ensure compliance with its terms and serve its MLL students and LEP parents. The District is in compliance with all nine (9) key areas identified by the DOJ.

First, relative to the identification and placement of students, the District's implementation of a monthly reporting system and training of Registration Center staff allows it to adequately identify, screen, and place students as required by the Settlement Agreement.

Second, the District's revamping of its collaboration model and waiver policy, as well as the discontinuation of its sheltered ESL program, has allowed the District to expand access to MLL services and core curriculum in accordance with the terms of the Settlement Agreement.

Third, the District's addition of a Director of MLL Services and its greatly improved recruiting and incentive programs have allowed it to dramatically increase the number of adequately trained staff working with MLLs.

Fourth, the District's DOJ approved professional development programs have allowed it to comply with the required training for staff under the terms of the Settlement Agreement.

Fifth, the District has made the necessary investments in high quality curriculum and resources for MLLs.

Sixth, the District can adequately communicate with LEP parents because of the technological and translation services its implemented.

Seventh, the District's various initiatives have markedly expanded MLL access to advanced academics and CTE programs since the inception of the Settlement Agreement.

Eighth, with the help of the District's consultant and development of the Special Education guide, the District is able to identify and evaluate MLLs for special education services as required by the Settlement Agreement.

Finally, the District's investment in a database and longitudinal studies have allowed it to develop a system to monitor, evaluate, and report that has been commended by the DOJ.

See id., ¶ 31 at pp. 14-15.

i. Recent Issues at PPSD's Newcomer Academy

28. Recently, RIDE was informed that PPSD's Newcomer Academy, (the "Academy"), a new school that opened this year inside the Providence Career & Technical Academy, lacked a stand-alone English language development class and thus was out of compliance with the Settlement Agreement. *See* First Supplemental Affidavit of Deputy Commissioner Roldán (the "Supp. Roldán Aff."), ¶ 4 at p. 2.

29. The Academy was designed for recent immigrants over the age of seventeen (17) with limited or interrupted education who are at least two years behind in credits and was designed to provide a more flexible schedule, recognizing that many of these students work jobs outside of school and are at high risk of dropping out. *See id.*, ¶ 5 at p. 2.

30. None of the students at 360 will transfer into the Academy, and, based upon personal observations and discussions with PPSD's staff and its legal counsel, it was the opinion of RIDE Deputy Commissioner Roldán that the issues that have recently come to light at the Academy are not reflective of the practice at other PPSD high schools, all of which are in compliance with the terms of the Settlement Agreement. *See id.*, ¶ 6 at p. 2.

D. The Blueprint for MLL Success

31. From 2010 to 2020 Rhode Island has experienced one of the greatest rates of increase in MLLs in the country. *See* Ed. Council minutes of the meeting dated March 26, 2024 at Enclosure 5a.¹⁶ There are now two times as many MLLs enrolled in school year 2023-2024 as was the case a decade ago, and the State is currently home to some 18,422 MLLs, which represents some 13.5% of the State's students. *See id.*

32. The Ed. Council has promulgated the State's MLL Regs., 200-RICR-20-30-3, which "are intended to support compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and the Equal Education Opportunities Act of 1974 (*See* 20 U.S.C. § 1703 (f))." *Id.*, 200-RICR-20-30-3.1(A). The MLL Regs have been the subject of substantial revision, and amended MLL Regs will be the subject of a statewide public comment process in the Fall. *See* Roldán Aff., ¶ 31 at pp. 14-15.

33. RIDE is a member of the World-Class Instructional Design and Assessment ("WIDA") consortium, which focuses on ensuring high-quality instruction and supports for MLLs, and has adopted WIDA's suite of ACCESS assessments as its federally mandated annual English language proficiency assessment. *See id.*, ¶ 34 at p. 15.

34. To guide the shifts in educational practice necessary for MLLs to thrive, a RIDE Planning Team recruited individuals from local education agencies, universities, community organizations, and offices at RIDE and PPSD to form workgroups, which resulted in Rhode Island's *Blueprint for Multilingual Learners* (the "Blueprint") (a copy of the Blueprint is attached to the Roldán Aff. as Exhibit L), which the Ed. Council approved in 2021. *See id.*, ¶ 35 at p. 15.¹⁷

35. The Blueprint was premised upon the following five principles:

¹⁶ Available at https://ride.ri.gov/sites/g/files/xkgbur806/files/2024-03/Council_Meeting_0326_Agenda.pdf.

¹⁷ Available at https://ride.ri.gov/sites/g/files/xkgbur806/files/Portals/0/Uploads/Documents/OSCAS/English-Learner-Pages/Blueprint-MLL/RIDE-Blueprint-for-MLL-Success_0621.pdf?ver=2021-09-24-100601-540.

Principle 1: An asset-oriented system embraces expectations and approaches to value, respect, and sustain MLL languages and cultures.

Principle 2: A high-quality instructional system (including curriculum, instruction, materials, assessments, and professional learning) provides access to rigorous standards-aligned learning opportunities and empowers students.

Principle 3: A family- and community-centered system maximizes the assets of families, communities, and schools so MLLs reach their full potential.

Principle 4: A research- and data-informed system holds all educators responsible for continuously strengthening MLL education.

Principle 5: A coherent and nimble system aligns policies, resources, and practices to increase MLL achievement.

See id.

36. In furtherance of its Blueprint, RIDE:

- Published the High-Quality Instructional Framework;¹⁸
 - Partnered with English Language Success Forum and
 - Provided Math Curriculum Access Training in 2023-24;
- Supported expansion of MLL Endorsement options;
 - Expanded # MLL Endorsement programs and
 - Developed MLL Leadership Endorsement with URI;
- Collaborated on improvement strategies with PPSD and five other partner Districts;
- Built MLL Data Visualizations;¹⁹
- Launched parent engagement with a parent advocacy group; and
- Partnered with the RI Foundation to support 5 LEAs, including PPSD, with Bilingual/Dual Language Planning Grants.

See id., ¶ 37 at p. 16.

37. In addition, RIDE has provided access to high-quality curriculum materials. *See id.*, ¶ 38 at p. 16.

¹⁸ See https://ride.ri.gov/sites/g/files/xkgbur806/files/Portals/0/Uploads/Documents/MLL/HQIF-for-MLLs-to-Thrive_Last-Update-9.2.22.pdf?ver=ZJW6YsG4-7CvHO9_c4bM8Q%3D%3D#:~:text=Within%20this%20framework%2C%20each%20HQIP,attainable%20through%20high%2Dquality%20instruction.

¹⁹ See the "Multilingual Learners" dashboard in the RIDE Data Center at <https://datacenter.ride.ri.gov/Home/FileDetail?fileid=996>.

38. As a result, Rhode Island has almost completely closed the performance gap between recently exited MLL students and students who were never identified as MLLs using RICAS/SAT assessment results as the benchmark. *See id.*, ¶ 39 at p. 16; *see also* the RIDE Assessment Data Portal, filtered by "English Learner" student group;²⁰ *see also* Ed. Council minutes of the meeting date October 24, 2023 at Enclosure 5a.²¹

E. The Redesign Models and Plans

39. Rhode Island's State ESSA Plan was approved by the U.S. Department of Education on March 29, 2018 and most recently amended on December 18, 2023. Under the Plan, schools that have been identified for CSI and have failed to meet exit criteria within four years of identification must undergo a school redesign process. *See* ESSA State Plan, p.55. (A copy of the Plan is attached as Exhibit M to the Roldán Aff.).

40. LEAs may choose from one of five redesign options: Empowerment, Restart, Small Schools of Choice, LEA Proposed Redesign, or Closure. *See id.* at p. 56. "The model selected by the LEA should be grounded in data accompanied by thoughtful analysis of why school improvement efforts thus far have been insufficient." *Id.* "LEAs must submit their School Redesign plans to the [Ed. Council] for approval." *Id.* Once approval is granted, the LEA will be "publicly classified as 'New School Redesign' instead of a school identified for comprehensive support and improvement for up to two years." *Id.*

41. During a public meeting held on July 18, 2023, the Ed. Council undertook the review of School Redesign applications for five schools within the PPSD that were identified for CSI. *See* Ed. Council minutes of the meeting dated July 18, 2023 at Enclosure 6a, a copy of

²⁰ Available at <https://www3.ride.ri.gov/ADP>.

²¹ Available at https://ride.ri.gov/sites/g/files/xkgbur806/files/2023-10/Council_Meeting_Oct_Agenda.pdf.

which is attached to the Roldán Aff. as Exhibit N.²² These schools included: Hope High School, William B. Cooley Sr. High School at the Juanita Sanchez Educational Complex ("JSEC"), Mt. Pleasant Early College and Career Academy, Dr. Jorge Alvarez High School, and Governor Christopher DelSesto Middle School. *Id.*

42. The Redesign application process consisted of three stages:

Stage 1 - Redesign Application Submission

Stage 2 - Review

Stage 3 - Review and Final Recommendations

Id. During each stage, PPSD received feedback from trained third-party evaluators against the standards articulated in the application rubric. *Id.*

43. In Stage 1, PPSD submitted their finalized School Redesign Applications to RIDE by April 7, 2023. *Id.* In turn, RIDE provided feedback on April 28, 2023. *Id.* In Stage 2, PPSD addressed deficiencies in their applications, as identified by RIDE's feedback, within a seven-page written response. *Id.* This stage was completed on May 12, 2023. *Id.* In Stage 3, PPSD had the opportunity to remedy any remaining areas of deficiency during three-hour capacity interviews. *Id.* This stage was completed on June 16, 2023. *Id.*

44. The Superintendent's recommendation with respect to JSEC's Redesign Application Plan highlighted: (1) "[t]he school has chosen to expand its strongest pathway programming in biomedical sciences . . . The current pathway offers some of the most project-based, engaging, and rigorous curricula at the school"; (2) "[t]he school's proximity to local hospitals and research institutions . . . will provide opportunities for work-based learning and partnerships with key experts in the discipline of biomedical research and science," which "will support industry speakers and presentations, student internships, and field trips"; and (3)

²² Also available at https://ride.ri.gov/sites/g/files/xkgbur806/files/2023-07/Council_Meeting_July_FinalAgenda.pdf.

"[t]he Linked Learning model provides a nationally-proven instructional framework that emphasizes work- and project-based learning." *Id.*

45. While JSEC's Redesign Plan expands its specialization in the biomedical center, it also "supplements [the biomedical pathway] with additional advanced coursework and internship opportunities as well as comprehensive support services for multilingual learners (MLLs) and differently-abled students." *Id.* JSEC's Redesign Plan focuses on the Linked Learning framework, through which "students learn through a pathway connected to a local industry sector—design, energy, agricultural science, engineering, information technology, arts and entertainment, advanced manufacturing, healthcare, and more. No matter the pathway available to them, students discover that learning makes sense when there is a clear connection to the real work, and the skills and mindsets they gain have relevance that transcends any given sector." *Id.* (citing Linked Learning Alliance, 2023).

46. "The Linked Learning model provides a nationally proven instructional framework that emphasizes work- and project-based learning ("PBL")," with "the benefits of embedding a PBL instructional approach within a Linked Learning model hav[ing] the potential to support the school in building internal coherence and supporting both teacher and student mindset." *Id.* "The rigor and relevance associated with PBL units and the metacognitive, reflective, and interpersonal skills students will learn through engagement in PBL will also promote equity and access for students, many of whom represent historically marginalized groups." *Id.*

47. Deriving from this Linked Learning framework, JSEC's Redesign Plan key design elements include:

- (a) Academic Core, defined as "rigorous college preparatory courses in English, math, science, social studies, foreign language, and visual arts";

- (b) Technical/Professional Core, defined as "emphasis on the practical use of academic learning and preparation for high-skill, high-wage employment";
- (c) Real-World Learning Opportunities, defined as "meaningful work-based experiences including internships, apprenticeships and school-based enterprises that deepen students' understanding of academic and technical knowledge through application"; and
- (d) Support Services, defined as "individualized supports, including counseling and supplemental instruction, to help students master the advanced academic and technical content necessary for success."

Id.

48. In addition to the JSLSI, other PPSD high school redesign plans include:

- **Mount Pleasant Early College & Career Academy**, which will be an early college model school with dual and concurrent enrollment that offers CTE programs in advanced manufacturing, pre-engineering, teacher, academy, and computer science, including partnerships with MC, URI, and industry partners.
- **Hope Visual & Performing Arts**, which will offer integrated arts with a focus on project-based learning and interdisciplinary instruction, including partnerships with RISD, Brown, and community art organizations;
- **Dr. Jorge Alvarez High School of Healthcare & Finance**, will focus on careers in healthcare and finance career pathways with project-based learning and work-based learning instruction, including partnerships with RI hospitals, RI Nursing Education Center, NAF, and local and national financial institutions.

See id., ¶ 49 at p. 20.

49. Finally, at the conclusion of the Redesign application process, the Ed. Council approved all the PPSD applications under Rhode Island's ESSA State Plan during its July 18, 2023 meeting, to be effective at the beginning of the 2023-2024 school year, noting that the proposals "meet the expectations of redesign and will provide the students and community with high-quality academic opportunities." *Id.*

E. The Budget Crisis and the Costs Savings

50. PPSD's primary funding comes through its local budget, which is comprised of funds from the state and funds from the City of Providence; and:

- a. Aid from the City of Providence has been nearly flat over the past decade (average annual increase of 0.4%), making it difficult to keep up with cost-of-living changes. Moreover, the District is required to pass through any City aid to Charter schools serving PPSD students, which has increased significantly over the past few years; and
- b. Aid from the State is based on per pupil enrollment and has increased over time, but the per pupil state aid does not adequately cover certain specialized programming. For example, the costs to operate a typical special education pre-k classroom are typically 3 times as much as the state aid provided by the students in the classroom.

See Scott Aff., ¶ 3 at p. 2.

51. In addition to the above factors, the expiration of millions in federal COVID-19 relief funds, declining enrollment, an unprecedented growth in the needs of specialized student services and associated costs, have all caused significant financial pressures on PPSD's FY25 budget outlook. *See id.*, ¶ 4 at p. 2.

52. The Crowley Act provides in clear, unambiguous language that a municipality must fund a school district subject to intervention "at the same level as hi the prior academic year increased by the same percentage as the state total of school aid is increased." R.I. Gen. Laws § 16-7.1-5(a) (emphasis added). Yet, in each and every fiscal year ("FY") since PPSD came under State control, i.e., in FY's 2021, 2022, 2023 and now, 2024, the City of Providence has appropriated the exact same amount of money to PPSD, and at no time was in compliance with the Crowley Act's plain maintenance of effort ("MOE") mandate. *See id.*, ¶ 5 at p. 2.; *see also* decision in *In re PPSD*, RIDE No. 23-099 A at p. 2. (A copy of the decision is attached to the Scott Aff. as Exhibit A).

53. The City's mandatory financial contribution to PPSD wider the Crowley Act for FY25 is \$160,416,352. PPSD recognized that obligating this full amount would be challenging

to the City, and subsequently requested \$147,677,530 in City funding (a decline from the \$147,950,978 requested in FY24). On May 17, 2025, PPSD learned from the City of Providence budget address that the City only plans to allocate \$133,046,611 for FY25. *See* Scott Aff., ¶ 5 at pp. 2-3.

54. On August 15, 2023, the Commissioner of Education, after an evidentiary hearing, issued a decision holding that the City of Providence had provided some \$25 million less to PPSD than the amount mandated by the statutory maintenance of effort provision governing intervention in failing school districts for fiscal year 2024. (A copy of the decision is attached to the Scott Aff. as Exhibit A). However, the decision and subsequent withholding order directing the General Treasurer to withhold a portion of the amount owed from non-education-related State aid allocated to the City was stayed on appeal by Superior Court, *see Brett .P Smiley, et al. v Angelica Infante-Green*, C.A. No. PC-2023-03940 (Lanphear, J.), and the City's appeal is currently in mediation. *See* Scott Aff., ¶ 7 at p. 3.

55. Last fiscal year alone, PPSD spent \$56,500,000 on programs expressly dedicated to MLLs. *See id.*, ¶ 8 at p. 3.

56. Restructuring JSEC and 360 High School together to create the JSLSI will not only expose students to innovative and engaging programming for in-demand, high-paying life sciences fields, it also will realize approximately \$1.5-211 in cost savings. *See id.*, ¶ 9 at p. 3

Defendants,
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of Education,

By their attorneys,

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Dated: May 15, 2024

CERTIFICATION

I hereby certify that, on this 15th day of May, 2024, I caused this document to be filed with the Court's electronic filing system and served by electronic mail upon Jennifer Wood, Esq. at jwood@centerforjustice.org and John Kawashan, Esq., at jkawashan@centerforjustice.org. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ A.F. Cottone
